

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Labor,
Licensing and Regulation, South Carolina
Manufactured Housing Board,

Petitioner,

vs.

Eric Corley (unlicensed),

Respondent.

Docket No. 15-ALJ-11-0072-IJ

ORDER

FILED

March 19, 2015

SC ADMIN. LAW COURT

APPEARANCES: For the Petitioner: Tracey R. Perlman, Esquire
For the Respondent: James P. O'Connell, Esquire

STATEMENT OF THE CASE

This matter comes before the South Carolina Administrative Law Court (ALC or Court) upon a Notice of Petition and Petition for Injunctive Relief filed by the South Carolina Department of Labor, Licensing and Regulation (Department) on its own behalf and on behalf of the South Carolina Manufactured Housing Board (Board). The Department is seeking injunctive relief and a fine of up to \$10,000.00 against Respondent Eric Corley (Respondent) for continuing to sell manufactured homes without a license after the Department issued him two Cease and Desist Orders.

FINDINGS OF FACT

Having observed the witnesses and exhibits presented at the hearing and closely passed upon their credibility, taking into consideration the burden of proof upon the parties, I make the following Findings of Fact by a preponderance of the evidence:

On December 5, 2013, the Board issued a Cease and Desist Order against Respondent for engaging in the sale of manufactured homes without a license in violation of S.C. Code Ann. § 40-29-30 (2011). After discovering a scrivener's error, this order was resent on December 11, 2013. Following the issuance of that order, Gwynn Morris, a manufactured housing investigator/inspector with the Department, investigated a complaint the Department received from the Aiken County Planning and Development Department that Respondent did not have

proper permits. Ms. Morris then spoke with Respondent, who admitted that he had sold between five and seven homes within the last twelve month period. She reminded him of the 2013 Cease and Desist Order, and he acknowledged that he needed to get a license. On September 23, 2014, the Board issued a second Cease and Desist Order against Respondent for continuing to sell manufactured homes without a license.

On November 17, 2014, the Codes Division of the Aiken County Planning and Development Board received an Application for License for Mobile Home or House Trailer Used as Dwelling for a manufactured home owned by Odell Millhouse, Jr. The seller of this home was listed as E.C. Mobile Homes, which is owned by Respondent, and the date of sale was February 15, 2014. On August 12, 2014, the Codes Division received a registration application for another manufactured home sold by Respondent's business, E.C. Mobile Homes. The owners were listed as Christa Mae Davenport and Robert L. Corley, and the date of sale, according to the purchase agreement, was April 8, 2014. Finally, on February 13, 2015, Robert Corley through E.C. Mobile Homes sold a home to Donald Boatwright, who attempted to register it in Aiken County.

Cagney Pruett, an administrative assistant in the Codes Division, discovered problems with the paperwork from Respondent, such as a lack of indication of where the manufactured homes came from and whether taxes were paid on them. Having previously issued two Cease and Desist Orders to no avail, the Department filed a Notice of Petition and Petition for Injunctive Relief with this Court.

Finally, Respondent testified that the Department's witnesses all told the truth. He admitted that he had sold four to six homes last year. He said that he sold seven homes after he had spoken with Ms. Morris. He considered his selling the homes to be "helping" the buyers, but he acknowledged that putting his name on the paperwork, such as the purchase agreements, as the seller was, in fact, selling. Respondent also testified that he did not have a license, but after speaking with a friend, Leonard Palmer, he is in the process of obtaining one. Respondent made it very clear to the Court that he desired to be honest and straightforward with the Court.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, I conclude the following as a matter of law:

As noted above, the Department seeks an Order enjoining and fining Respondent from continuing to sell manufactured homes without a license, specifically three or more

manufactured homes within the a year, because Respondent continued to sell manufactured housing even after the Department issued two Cease and Desist Orders against him. “Each administrative law judge of the [ALC] has the same power at chambers or in open hearing as do circuit court judges **and to issue those remedial writs as are necessary to give effect to its jurisdiction.**” S.C. Code Ann. § 1-23-630 (2005) (emphasis added).

This Court has subject-matter jurisdiction to hear this case. See *Washington v. Whitaker*, 317 S.C. 108, 115, 451 S.E.2d 894, 898 (1994) (“[S]ubject matter jurisdiction is met if the case is brought in the court which has the authority and power to determine the type of action at issue.”); S.C. Code Ann. § 1-23-600(F) (Supp. 2014) (“Notwithstanding another provision of law, a state agency authorized by law to seek injunctive relief may apply to the Administrative Law Court for injunctive or equitable relief pursuant to Section 1-23-630.”); *id.* § 40-3-210 (2011) (“The Department of Labor, Licensing and Regulation, on behalf of the board and in accordance with Section 40-1-120, may petition an administrative law judge, in the name of the State, for injunctive relief against a person violating this chapter.”); and *id.* § 1-23-630, *supra*.

“Manufactured home” is defined in the South Carolina Code as follows:

[A] structure, transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in it.

S.C. Code Ann. § 40-29-20(9) (2011). A “manufactured home retail dealer” is defined in the Code as follows:

[A] person engaged in the business of buying, selling, offering for sale, or dealing in manufactured homes or offering for display manufactured homes for sale in South Carolina. A person who buys, sells, or deals in three or more manufactured homes in any twelve-month period or who offers or displays for sale three or more manufactured homes in a twelve-month period is considered a manufactured home retail dealer. “Selling” and “sale” include lease-purchase transactions.

Id. § 40-29-20(15). According to 9 S.C. Code Ann. Regs. 79-21(A) (2012), “[a] person or entity that performs any of the transactions stated in this section[, including “engaging in the business of selling,”] for three (3) or more manufactured homes in any consecutive twelve (12) month period is required to be licensed as a retail dealer. . . .”

In this case, Respondent admitted at the hearing that the witnesses for the Department all spoke the truth, and he admitted to selling the three manufactured homes at issue within a

twelve-month period without a license. The evidence, both documentary and testimonial, also supports this conclusion.

ORDER

IT IS THEREFORE ORDERED that the Department's Petition for Injunctive Relief is **GRANTED**. Respondent is hereby enjoined from ANY selling whatsoever of manufactured homes unless and until Respondent obtains a license to do so. A violation of this Order will justify a finding of contempt and a warrant for Petitioner's arrest.

AND IT IS SO ORDERED.

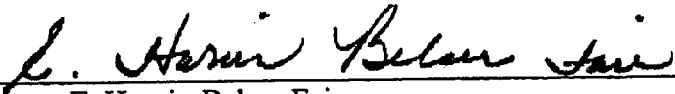
A handwritten signature in cursive script, reading "Ralph King Anderson, III". The signature is written in dark ink and is positioned above a horizontal line.

Ralph King Anderson, III
Chief Administrative Law Judge

March 19, 2015
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



E. Harvin Belser Fair
Judicial Law Clerk

March 19, 2015
Columbia, South Carolina